

**RULES
OF
TENNESSEE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
DIVISION OF EMPLOYMENT SECURITY
BUREAU OF UNEMPLOYMENT INSURANCE
UNEMPLOYMENT INSURANCE BENEFITS**

**CHAPTER 0560-1-1
BENEFITS**

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0560-1-1-.01 REGISTRATION FOR WORK BY TOTALLY UNEMPLOYED WORKERS.

- (1) The Department shall consider a totally unemployed worker to have registered for work in any week for which the worker has filed a claim for benefits unless the worker refused or failed to report for a placement interview.
- (2) The Department shall not consider the worker to have registered for work:
 - (a) any week in which the worker has been offered the opportunity to report for a placement interview in accordance with the rules and policy of the Department and the worker has refused or failed to report for such interview, and
 - (b) each subsequent week after the worker refused or failed to report for a placement interview until such placement interview has been completed.

Authority: T.C.A. §§50-7-602 and 50-7-603. **Administrative History:** Original rule certified May 17, 1974. Repeal and new rule filed January 22, 1996; effective May 30, 1996. Amendment filed May 22, 2001; effective September 28, 2001.

0560-1-1-.02 SEPARATION NOTICES TO BE FURNISHED BY THE EMPLOYERS.

- (1) Whenever a worker is separated from employment for an indefinite period or for an expected duration of seven (7) days or more, the worker's employer shall furnish to such worker a Separation Notice.
 - (a) The employer must supply the worker with a Separation Notice within twenty-four (24) hours after the worker's separation from employment.
 - (b) The employer must use the Separation Notice supplied by the Department and the employer must complete the information required on the form.

(Rule 0560-1-1-.02, continued)

- (2) Unless requested by the Department, an employer shall not be required to furnish a Separation Notice to any worker separated from employment for lack of work if the worker has been continuously employed for less than one week.
- (3) The Administrator shall waive Section (1) of this regulation if, by prior agreement, the employer has arranged with the Department to submit verification of the date of separation and the reason for the separation via an electronically transmitted method, a Mass Separation Notice or a Mail-in Claim.

Authority: T.C.A. §§50-7-602 and 50-7-603. **Administrative History:** Original rule certified May 17, 1974. Repeal and new rule filed January 22, 1996; effective May 30, 1996. Amendment filed May 22, 2001; effective September 28, 2001.

0560-1-1-.03 REGISTRATION AND FILING OF CLAIMS FOR PARTIAL UNEMPLOYMENT.

- (1) The Joint Low Earnings Report and Claim for Benefits for Partial Unemployment, form ES 0447, diskette or other electronic means, properly completed, shall constitute a claim for compensable or waiting period credit with respect to such week of partial unemployment covered by the claim. To be valid, the form must be completed and mailed or delivered to the Department within two (2) weeks after the employer has furnished the individual with information on the individual's earnings in any such week.

Authority: T.C.A. §§50-7-602 and 50-7-603. **Administrative History:** Original rule certified May 17, 1974. Repeal and new rule filed January 22, 1996; effective May 30, 1996. Amendment filed May 22, 2001; effective September 28, 2001.

0560-1-1-.04 EXTENDED PERIOD FOR REGISTERING AND FILING.

- (1) Notwithstanding the provisions of Rule 0560-1-1-.03, the Administrator may extend the period during which a claimant may file a claim for partial unemployment benefits if the Administrator finds that the failure of any individual to register and file a claim for such benefits within the time set forth in 0560-1-1-.03 of these regulations was due to:
 - (a) the employer's failure to comply with any of the provisions of the Tennessee Employment Security Law or the Rules of The Department of Labor and Workforce Development, Division of Employment Security, or
 - (b) the employer's exercising coercion or intimidation to prevent the prompt filing of such claim, or
 - (c) the Department's failure to discharge its responsibilities promptly in connection with such partial unemployment.

Authority: T.C.A. §§50-7-602 and 50-7-603. **Administrative History:** Original rule certified May 17, 1974. Repeal and new rule filed January 22, 1996; effective May 30, 1996. Amendment filed May 22, 2001; effective September 28, 2001.

0560-1-1-.05 CLAIMS FOR BENEFITS AND REGISTRATION FOR WORK (TOTAL OR PART-TOTAL UNEMPLOYMENT).

- (1) Unemployment Defined:
 - (a) "Total unemployment" means the unemployment of an individual in any week during which the individual performs no services and for which no wages are payable to the individual.

(Rule 0560-1-1-.05, continued)

- (b) “Part-total unemployment” means the unemployment of any individual in any week of less than full-time work in which the individual earns some remuneration, but less than the individual’s weekly benefit amount, and throughout which the individual is not attached to a regular employer.
- (2) Claims for benefits or waiting period credits for total or part-total unemployment shall be made through a Labor and Workforce Development Office on the form prescribed, setting forth:
 - (a) that the individual is unemployed,
 - (b) that the individual claims benefits,
 - (c) that the individual registers for work,
 - (d) such other information as is required for completion of the claim, and
 - (e) that such claim shall be effective as of the first day of the calendar week in which the individual reports and files a claim.
- (3) Continued claims for total or part-total unemployment shall be made in the format prescribed by the Administrator for each week of unemployment through a Labor and Workforce Development Office, except as provided in (a) below.
 - (a) Any continued claim for any week immediately preceding an individual’s reemployment under conditions which no longer make the individual eligible for benefits shall be allowed upon receipt of the individual’s signed statement setting forth all the facts of the individual’s reemployment and the individual’s record of earnings, if any, for the week for which benefits are claimed.
- (4) For reasons found to constitute good cause for an individual’s failure to file an initial or continued claim as required in this rule, a claim may be accepted as of the first day of the calendar week in which the individual became unemployed or continued to be unemployed; provided the individual files such claim at a Labor and Workforce Development Office within seven (7) days after the last day of such week.

Authority: T.C.A. §§50-7-602 and 50-7-603. **Administrative History:** Original rule certified May 17, 1974. Repeal and new rule filed January 22, 1996; effective May 30, 1996. Amendment filed May 22, 2001; effective September 28, 2001.

0560-1-1-.06 EMPLOYER RECORDS IN CONNECTION WITH PARTIAL UNEMPLOYMENT.

- (1) All employers covered by the Tennessee Employment Security Law shall keep their payroll records in any manner best suited to their convenience. The employer, however, must keep the records in a form that an inspection of such records could determine the following information for each worker in the employer’s employ who may be eligible for partial benefits:
 - (a) wages earned by weeks as described in 0560-1-1-.10 of these regulations;
 - (b) whether any week of partial unemployment claimed by each worker is in fact a week of less than full-time work;
 - (c) time lost, if any, due to unavailability for work by each worker who may be eligible for partial benefits.

(Rule 0560-1-1-.06, continued)

Authority: T.C.A. §§50-7-602 and 50-7-603. **Administrative History:** Original rule certified May 17, 1974. Repeal and new rule filed January 22, 1996; effective May 30, 1996. Amendment filed May 22, 2001; effective September 28, 2001.

0560-1-1-.07 EMPLOYER TO FURNISH EVIDENCE OF PARTIAL UNEMPLOYMENT.

- (1) The employer shall, immediately after the termination of each week (as described in 0560-1-1-.10) which begins within such benefit year and for which such worker's earnings fall below such worker's weekly benefit amount because of lack of work in such week, furnish each such worker with a copy of the Joint Low Earnings Report and Claim for Benefits for Partial Unemployment, or submit to the Department a computer diskette or other electronic report approved by the Administrator setting forth the information required. Such information includes:
 - (a) the worker's name and social security account number,
 - (b) the ending date of such week,
 - (c) the wages earned in such week, and
 - (d) a proper certification as to such worker having worked less than such worker's normal customary full-time hours because of lack of work in such week.
- (2) The employer must forward The Joint Low Earnings Report and Claim for Benefits for Partial Unemployment form, diskette or electronic report to the Labor and Workforce Development Office if the worker has returned the completed form to the employer within the time limit provided by these Rules.
- (3) If the worker does not return the form to the employer, the worker must mail or deliver the form, diskette or electronic report to the Labor and Workforce Development Office within the time limit set forth in these regulations in order to establish a waiting period of compensable credit for a given week of partial unemployment.
- (4) Employers filing claims by computer diskette, or other electronic means, must submit the claims to the Department in accordance with prescribed instructions issued by the Department.

Authority: T.C.A. §§50-7-602 and 50-7-603. **Administrative History:** Original rule certified May 17, 1974. Repeal and new rule filed January 22, 1996; effective May 30, 1996. Amendment filed May 22, 2001; effective September 28, 2001.

0560-1-1-.08 EMPLOYER TO INITIATE FIRST CLAIMS FOR PARTIAL BENEFITS.

- (1) If the worker meets the definition of a partially unemployed individual, the worker's employer shall, immediately after the termination of any week in which the employer has furnished the worker less than four (4) full days work or the time or dollar equivalent thereof, file with the Department a Joint Low Earnings and Claim for Benefits for Partial Unemployment, or the worker's employer shall submit the information on a computer diskette or other electronic means. The information shall include:
 - (a) the worker's name
 - (b) the worker's social security account number
 - (c) the employer's name, address, and registration number, and
 - (d) such other information as is required by such form.

(Rule 0560-1-1-.08, continued)

- (2) This form, diskette, or other electronic method is not required to be filed for workers whose earnings for the week involved were in excess of the maximum weekly benefit amount.
- (3) The Joint Low Earnings and Claim for Benefits for Partial Unemployment form, diskette or other electronic filing method may also be used for weeks of total unemployment during mass layoffs, provided a prior arrangement has been made with an authorized representative of the Department. In such cases, the employer must file the claims with the Labor and Workforce Development Office within seven (7) days from the end of the week in which the unemployment begins.

Authority: T.C.A. §§50-7-602 and 50-7-603. **Administrative History:** Original rule certified May 17, 1974. Repeal and new rule filed January 22, 1996; effective May 30, 1996. Amendment filed May 22, 2001; effective September 28, 2001.

0560-1-1-.09 DEPARTMENT TO NOTIFY EMPLOYEE OF DETERMINATION.

- (1) When a worker is not in a current benefit year, the Department shall, upon the receipt of the Joint Low Earnings Report and Claim for Benefits for Partial Unemployment form, a computer diskette or other electronically transmitted claim from the employer with the information required, promptly notify the worker named therein of the worker's:
 - (a) potential rights to partial benefits,
 - (b) weekly benefit amount, and
 - (c) benefit year ending date.

Authority: T.C.A. §§50-7-602 and 50-7-603. **Administrative History:** Original rule certified May 17, 1974. Repeal and new rule filed January 22, 1996; effective May 30, 1996. Amendment filed May 22, 2001; effective September 28, 2001.

0560-1-1-.10 WEEK OF PARTIAL UNEMPLOYMENT DEFINED.

- (1) "Week of partial unemployment" means the calendar week (the 7-day period ending Saturday midnight).
 - (a) All claims for benefits must be filed on a calendar week basis. When an employer regularly and customarily pays any worker on a weekly payday other than Saturday and such payment covers services performed by the worker during a period of seven (7) calendar days preceding such regular payday, then the amount of weekly earnings to be reported shall be the amount paid to the worker on the regular weekly payday that falls prior to Saturday of each week.

Authority: T.C.A. §§50-7-602 and 50-7-603. **Administrative History:** Original rule certified May 17, 1974. Repeal and new rule filed January 22, 1996; effective May 30, 1996. Amendment filed May 22, 2001; effective September 28, 2001.

0560-1-1-.11 PARTIAL UNEMPLOYMENT DEFINED.

- (1) Partial employment presupposes that the worker is working less than full-time because the worker's employer is unable to provide the worker with full-time work.
- (2) A worker is partially unemployed only if the worker had a continuous attachment to an employer during a given claim period; in other words, during such period as the worker is "underemployed" and not "unemployed" in the sense that an individual has no employer.

(Rule 0560-1-1.11, continued)

- (3) To establish eligibility for partial benefits, an individual must be able and available for work during the period for which the individual is claiming the benefits.

Authority: T.C.A. §§50-7-602 and 50-7-603. **Administrative History:** Original rule certified May 17, 1974. Repeal and new rule filed January 22, 1996; effective May 30, 1996. Amendment filed May 22, 2001; effective September 28, 2001.

0560-1-1.12 PARTIALLY UNEMPLOYED INDIVIDUAL DEFINED.

- (1) An individual shall be deemed partially unemployed during any week of less than full-time work if this condition is due to lack of work and if the wages payable to the individual for such week are:
 - (a) less than the individual's weekly benefit amount, and
 - (b) more than the deductible allowance as provided for in T.C.A. Section 50-7-301(c)(1).
- (2) "Less than full-time work" refers to the customary full-time work of the individual worker and not to the customary full-time work of the establishment or occupation in which the individual is engaged.

Authority: T.C.A. §§50-7-602 and 50-7-603. **Administrative History:** Original rule certified May 17, 1974. Repeal and new rule filed May 9, 1979; effective June 25, 1979. Amendment filed May 22, 2001; effective September 28, 2001.

0560-1-1.13 WEEK OF UNEMPLOYMENT DEFINED.

- (1) "Week of unemployment" means the calendar week (the seven (7) day period ending Saturday at midnight).

Authority: T.C.A. §§50-7-602 and 50-7-603. **Administrative History:** Original rule certified May 17, 1974. Repeal and new rule filed January 22, 1996; effective May 30, 1996. Amendment filed May 22, 2001; effective September 28, 2001.

0560-1-1.14 COMMENCEMENT OF WORKER'S PERIOD OF UNEMPLOYMENT.

- (1) A worker's week of unemployment immediately following a period of work shall commence with the first day of the week in which the worker files a claim for benefits.
 - (a) If the worker was partially unemployed in such week, such week shall be counted only as a week of partial unemployment.

Authority: T.C.A. §§50-7-602 and 50-7-603. **Administrative History:** Original rule certified May 17, 1974. Repeal and new rule filed January 22, 1996; effective May 30, 1996. Amendment filed May 22, 2001; effective September 28, 2001.

0560-1-1.15 INTERESTED PARTIES.

- (1) Where a new claim is filed with the Tennessee Department of Labor and Workforce Development, Division of Employment Security, that results in the establishment of a benefit year, interested parties shall be deemed to be:
 - (a) the Commissioner of the Department of Labor and Workforce Development,
 - (b) the claimant,

(Rule 0560-1-1-.15, continued)

- (c) the claimant's most recent employer and any employer whose account may be charged with the benefits payable to the claimant upon the allowance of the claimant's claim for benefits.
- (2) Where a claim initiating a claim series during a benefit year is filed, or where any type of an appeal from the allowance or disallowance of a claim or claim charge is involved, interested parties shall be deemed to be:
 - (a) the Commissioner of the Department of Labor and Workforce Development,
 - (b) the claimant, and
 - (c) any employer directly involved in the facts of the issue.

Authority: T.C.A. §§ 50-7-602 and 50-7-603. **Administrative History:** Original rule certified May 17, 1974. Repeal and new rule filed January 22, 1996; effective May 30, 1996. Amendment filed May 22, 2001; effective September 28, 2001.

0560-1-1-.16 WITNESS FEES.

- (1) Witnesses subpoenaed for any hearing before the Board of Review or before the Appeals Tribunal shall be paid the per diem and mileage rates fixed by the laws of Tennessee in other civil cases.

Authority: T.C.A. §§50-7-602 and 50-7-603. **Administrative History:** Original rule certified May 17, 1974. Repeal and new rule filed January 22, 1996; effective May 30, 1996. Amendment filed May 22, 2001; effective September 28, 2001.

0560-1-1-.17 BENEFIT DETERMINATION NOTICE.

- (1) Each notice of benefit determination which the administrator is required to furnish to the claimant shall, in addition to stating the decision and its reasons, include a notice specifying the claimant's appeal rights.
- (2) The notice of appeal rights shall state clearly the place and manner for taking an appeal from the determination and the period within which an appeal may be taken.

Authority: T.C.A. §§50-7-602 and 50-7-603. **Administrative History:** Original rule certified May 17, 1974. Repeal and new rule filed January 22, 1996; effective May 30, 1996. Amendment filed May 22, 2001; effective September 28, 2001.

0560-1-1-.18 BENEFIT APPEAL NOTICE.

- (1) Each benefit appeal decision which is sent to the parties to an appeal shall include or be accompanied by a notice specifying the appeal rights of the parties.
- (2) The notice of appeal rights shall state clearly the place and manner for taking an appeal from the decision and the period within which an appeal may be taken.

Authority: T.C.A. §§50-7-602 and 50-7-603. **Administrative History:** Original rule certified May 17, 1974. Repeal and new rule filed January 22, 1996; effective May 30, 1996. Amendment filed May 22, 2001; effective September 28, 2001.

0560-1-1-.19 SEPARATE HEARINGS ON INTRASTATE APPEALS.

- (1) Normally when an intrastate benefit appeal is made, the hearings shall be scheduled near the place of the claimant's residence or conducted by telephone.

(Rule 0560-1-1-.19, continued)

- (2) If a hearing near the claimant's place of residence would cause undue hardship on one or more parties then separate hearings may be scheduled at the discretion of the Appeals Referee or the Board of Review. If separate hearings are scheduled then:
 - (a) a transcript or recording of testimony given at the first hearing shall be mailed to the absent interested party with the notice of the second hearing without cost to the said party,
 - (b) any interested party may submit written interrogatories to any individual whose testimony appears in said transcript, and
 - (c) if it appears to the Appeals Referee that rebuttal testimony is necessary, an additional hearing may be scheduled for that purpose upon the request of any party.

Authority: T.C.A. §§50-7-602 and 50-7-603. **Administrative History:** Original rule certified May 17, 1974. Repeal and new rule filed January 22, 1996; effective May 30, 1996. Amendment filed May 22, 2001; effective September 28, 2001.

0560-1-1-.20 INTERSTATE CLAIMS AND PROCEDURE.

- (1) The following regulations shall govern the Tennessee Department of Labor and Workforce Development, Division of Employment Security, in its administrative cooperation with other States adopting a similar regulation for the payment of benefits to interstate claimants.
- (2) Definitions. As used in this regulation unless the context clearly requires otherwise:
 - (a) Interstate payment plan" means the plan approved by the Interstate Conference of Employment Security Agencies under which benefits shall be payable to unemployed individuals absent from the State (or States) in which benefit credits have been accumulated.
 - (b) "Interstate claimant" means an individual who claims benefits under the unemployment insurance law of one or more liable States through the facilities of an agent state.
 1. The term "interstate claimant" means an individual who claims benefits under the unemployment insurance law of one or more liable States through the facilities of an agent State. The term "interstate claimant shall not include any individual who customarily commutes from a residence in an agent State to work in a liable State unless this Department finds that this exclusion would create undue hardship on such claimants in specified areas.
 2. repealed.
 - (c) State" includes the District of Columbia, the Commonwealth of Puerto Rico and the Virgin Islands.
 - (d) "Agent State" means any State in which an individual files a claim for benefits for another State.
 - (e) "Liable State" means any State against which an individual files, through another State, a claim for benefits.
 - (f) "Benefits" means the compensation payable to an individual, with respect to such individual's unemployment, under the unemployment insurance laws of any State.

(Rule 0560-1-1-.20, continued)

- (g) “Week of unemployment” includes any week of unemployment as defined in the law of the Liable State from which benefits with respect to such week are claimed.
 - 1. With respect to an individual attached to such individual’s regular employer, week of unemployment means the seven (7) consecutive-day period prescribed by the Agent State with respect to such individual’s employer.
- (3) Registration for Work.
 - (a) Each interstate claimant shall be registered as unemployed and registered for work, through any public employment office in the Agent State when and as required by the law, regulations, and procedures of the Agent State. Such registration shall be accepted as meeting the registration requirements of the Liable State.
 - (b) Each Agent State shall duly report to the Liable State in question whether each interstate claimant meets the registration requirements of the Agent State.
- (4) Benefit Rights of Interstate Claimants.
 - (a) If a claimant files a claim against any State, and such State determines that the claimant has available benefit credits in such State, then the claimant shall only file a claim against that State as long as benefit credits are available in that State.
 - (b) Thereafter, the claimant may file claims against any other State in which the claimant has available benefit credits.
 - (c) For purposes of this regulation, benefit credits shall be deemed to be unavailable whenever:
 - 1. benefits have been exhausted, terminated or postponed for an indefinite period, or
 - 2. benefits have been exhausted, terminated or postponed for the entire period in which benefits would otherwise be payable, or
 - 3. benefits are affected by the application of a seasonal restriction.
 - (d) Repealed.
 - (e) For purposes of this regulation, benefit credits shall be deemed to be available during any fixed period of temporary disqualification if, in the absence of further disqualification, benefits will thereafter be payable on the basis of such credits.
 - (f) Benefit credits in any State shall be deemed to be unavailable solely for partial unemployment benefit purposes if that State does not provide for the interstate payment of partial unemployment benefits.
- (5) Claims for Benefits.
 - (a) Interstate claimants shall file claims for benefits or a waiting period on uniform interstate claim forms or by telephone and in accordance with uniform procedures developed pursuant to the Interstate Benefit Payment Plan.
 - (b) Claims shall be filed in accordance with the type of week in use in the Agent State. Any adjustments required to fit the type of week used by the Liable State shall be made by the Liable State on the basis of the consecutive claims filed.

(Rule 0560-1-1-.20, continued)

- (c) Claims shall be filed weekly or bi-weekly in the Labor and Workforce Development Offices, by mail or by telephone in accordance with Agent State regulations for intrastate claims, or in accordance with the schedule provided by itinerant service.
 - 1. With respect to claims for weeks of unemployment in which an individual was not working for such individual's regular employer, the Liable State shall, under circumstances that it considers good cause, accept a continued claim filed up to one week or one reporting period late.
 - 2. If a claimant files more than one reporting period late, the claimant must file an initial claim to begin a claim series. The Department will not accept a continued claim for a past period.
 - 3. With respect to weeks of unemployment during which an individual is attached to such individual's regular employer, the Liable State shall accept any claim that is filed within the time limit applicable to such claims under the law of the Agent State.
- (6) Determination of Claims.
 - (a) The Agent State shall, in connection with each claim filed by an interstate claimant, ascertain and report to the Liable State the facts relating to the claimant's availability for work and eligibility for benefits as are readily determined in and by the Agent State.
 - (b) The Agent State's responsibility and authority in connection with the determination of interstate claims shall be limited to investigation and reporting of relevant facts.
 - (c) The Agent State shall not refuse to take an interstate claim.
- (7) Appellate Procedure.
 - (a) The Agent State shall afford all reasonable cooperation in the taking of evidence and the holding of hearings in connection with appealed interstate benefit claims.
 - (b) With respect to the time limits imposed by the law of a Liable State upon the filing of an appeal in connection with a disputed benefit claim, an appeal made by an interstate claimant shall be deemed to have been made and communicated to the Liable State on the date when it is received by any qualified officer of the Agent State.

Authority: T.C.A. §§50-7-602 and 50-7-603. **Administrative History:** Original rule certified May 17, 1974. Repeal and new rule filed January 22, 1996; effective May 30, 1996. Amendment filed May 22, 2001; effective September 28, 2001.

0560-1-1-.21 CANADIAN CLAIMS. EXTENSION OF INTERSTATE BENEFIT PAYMENTS TO INCLUDE CLAIMS TAKEN IN AND FOR CANADA.

- (1) Rule 0560-1-1-.20 shall apply in all provisions to claims taken in and for Canada.

Authority: T.C.A. §§50-7-602 and 50-7-603. **Administrative History:** Original rule certified May 17, 1974. Repeal and new rule filed January 22, 1996; effective May 30, 1996. Amendment filed May 22, 2001; effective September 28, 2001.

0560-1-1.22 NOTIFICATION TO EMPLOYERS OF FILING OF CLAIMS BY FORMER EMPLOYEES.

- (1) The Department will notify the claimant's most recent employer and the Department will notify each employer in the base period when a former employee files an eligible claim for unemployment benefits. Such notice shall show:
 - (a) the claimant's name and social security account number
 - (b) the claimant's weekly benefit amount,
 - (c) the beginning and ending dates of the claimant's benefit year, and
 - (d) the total wages earned by the claimant in the claimant's base period.

Authority: T.C.A. §§50-7-602 and 50-7-603. **Administrative History:** Original rule certified May 17, 1974. Repeal and new rule filed January 22, 1996; effective May 30, 1996. Amendment filed May 22, 2001; effective September 28, 2001.

0560-1-1.23 NOTIFICATION TO EMPLOYERS OF BENEFITS CHARGED TO THEIR ACCOUNTS.

- (1) The Department shall notify each employer, from time to time during each calendar year as records are processed, of the benefits charged to the employer's account.
- (2) The employer's notification of benefits charged shall show:
 - (a) the employer's identification number,
 - (b) each claimant's social security account number, and
 - (c) the amount of benefits charged to the employer for each claimant.

Authority: T.C.A. §§50-7-602 and 50-7-603. **Administrative History:** Original rule certified May 17, 1974. Repeal and new rule filed January 22, 1996; effective May 30, 1996. Amendment filed May 22, 2001; effective September 28, 2001.

0560-1-1.24 SPECIAL REGULATION PERTAINING TO BENEFITS.

- (1) In compliance with an injunction issued by the U.S. District Court for the Middle District of Tennessee, Nashville Division, T.C.A., Section 50-7-304 will not be enforced insofar as it requires the termination or suspension of unemployment benefit payments of eligible claimants pending an appeal by the claimant's employer.
- (2) In further compliance with the order of the Court, lawful claims for benefits that are currently unpaid due to an appeal by the claimant's employer will be paid immediately.
- (3) This policy will remain in effect in the future until and unless it is lawfully changed by constituted authority.

Authority: T.C.A. §§50-7-602 and 50-7-603. **Administrative History:** Original rule certified May 17, 1974. Repeal and new rule filed January 22, 1996; effective May 30, 1996. Amendment filed May 22, 2001; effective September 28, 2001.

0560-1-1.25 SPECIAL REGULATION PERTAINING TO OVERPAYMENT RECOUPMENT.

- (1) In compliance with an injunction issued by the U.S. District Court for the Middle District of Tennessee, Nashville Division, a recipient of unemployment benefits who is subject to recoupment for

(Rule 0560-1-1-.25, continued)

overpayment of unemployment benefits will be given an adequate and timely notice of an opportunity for a hearing prior to any attempt to withhold unemployment benefits.

- (2) No benefits will be withheld from a recipient of unemployment benefits, who is subject to recoupment for overpayment of unemployment benefits, until that recipient has been apprised of such recipient's right to have a hearing on the existence of the overpayment and/or the waiver of repayment, and been given an opportunity to exercise that right.

Authority: T.C.A. §§50-7-602 and 50-7-603. **Administrative History:** Original rule filed December 2, 1985; effective March 17, 1986. Repeal and new rule filed January 22, 1996; effective May 30, 1996. Amendment filed May 22, 2001; effective September 28, 2001.

0560-1-1-.26 SUSPECTED OVERPAYMENTS.

- (1) The Department will send a notice to any unemployment benefit recipient who is suspected of having been overpaid benefits under this chapter. Such notice will inform the recipient that such recipient should report in person to the Labor and Workforce Development Office within seven (7) days after the date of mailing to provide information concerning a possible overpayment of benefits.
- (2) When a benefit recipient who is suspected of having received an overpayment from the Department reports to a Labor and Workforce Development Office in accordance with the call-in notice, a statement shall be taken from that recipient regarding the suspected overpayment.
- (3) The Department shall evaluate the information provided and issue its findings and conclusions concerning the existence and amount of any overpayment.
- (4) If a benefit recipient suspected of having a benefit overpayment fails to respond to a call-in notice, the Department will make a decision based on the available information.
- (5) When the Department issues its written overpayment decision, the decision will include:
 - (a) the notice of the recipient's right to appeal any determination of overpayment and,
 - (b) if the recipient is not at fault, the notice of the recipient's right to request a waiver of repayment at that time and for a period of up to ninety (90) days.
 - (c) The notice shall also state that if a recipient fails either to appeal the Department's overpayment decision or to request a waiver of repayment within the designated time period, the Department's overpayment decision shall become final and collection efforts, including the possible offsetting of future benefits, may be commenced by the Department.
- (6) A recipient shall have fifteen (15) days from the date the above decision and notice are mailed to request a hearing on any or all of the issues concerning the existence of an overpayment, the amount of the overpayment, and any denial of a request to waive repayment.
- (7) If a recipient fails to request a hearing or a waiver within the fifteen (15) day period, the Department's initial decision concerning the existence and amount of the overpayment shall become final.
- (8) Recipients requesting a hearing on either the amount, the existence, or the waiver of an overpayment shall have a hearing promptly scheduled in accordance with the rules set forth in T.C.A. Chapters 0560-3-2 and 0560-3-4.
- (9) Once the decision is final, the Department may begin to recoup the amount overpaid by offsetting that amount against the recipient's future benefits.

(Rule 0560-1-1-.26, continued)

(10) Repealed.

Authority: T.C.A. §§50-7-602 and 50-7-603. **Administrative History:** Original rule filed December 2, 1985; effective March 17, 1986. Repeal and new rule filed January 22, 1996; effective May 30, 1996. Amendment filed May 22, 2001; effective September 28, 2001.